

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
MARTA ISABELL PICAZZO-SARICAS,) CASE NO. 05-62929 JPK
) Chapter 13
Debtor.)

ORDER AND NOTICE REGARDING "PRE-CONFIRMATION
AGREED MATERIAL MODIFICATION OF PLAN AND ORDER"

On August 24, 2005, the above-designated document, as approved by both the Chapter 13 Trustee and the debtor's attorney, was filed of record. The modification proposed by the document is the following:

That the jewelry will be surrendered and abandoned to secured creditor, Albert's Jewelers. That Indiana Department of Revenue filed a Proof of Claim on July 22, 2005 that the debtor owes liability for the year of 2002. That claim states that debtor owes \$117.59 for Priority and \$10,74 for Unsecured. That trustee shall pay \$117.59 upon receiving debtor's 2006 Tax Refund in excess of \$500.00. That Indiana Department of Revenue will receive pro rata for unsecured portion.

This modification affects interests of Albert's Jewelers and of the Indiana Department of Revenue.

The modification was noticed to creditors and parties-in-interest, as evidenced by docket record entry #25. However, the certificate of service with respect to that notice establishes that the Indiana Department of Revenue was not included in the list of creditors receiving notice. The stated deadline for filing a request for hearing or objection with respect to the modification was September 13, 2005, and no request for hearing or objection was filed.

A conceptual problem, apart from the lack of notice to the Indiana Department of Revenue, arises from the fact that an order confirming the debtor's Chapter 13 plan was entered on September 21, 2005, and that at that time, the Court had not yet reviewed the pre-confirmation modification proposed by docket record entry #24. Thus, that proposed

modification did not constitute a part of the debtor's plan as confirmed by the Court's order of September 21, 2005.

The Court finds that the lack of notice of this modification to the Indiana Department of Revenue precludes its being approved by the Court. The Court further finds that the modification should now be noticed to creditors pursuant to 11 U.S.C. § 1329.

IT IS ORDERED, AND NOTICE IS HEREBY GIVEN, that the debtor proposes to modify her confirmed Chapter 13 plan in the manner designated above, and that any request for hearing or objection with respect to that modification must be filed in writing with the Clerk of the United States Bankruptcy Court at 5400 Federal Plaza, Hammond, IN 46320, with a copy served on counsel for the debtor [Wanda Rodgers Hayes, 660 West 81st Ave., Suite H, Merrillville, IN 46410] and upon the Chapter 13 Trustee [Paul R. Chael, 401 West 84th Drive, Suite C, Merrillville, IN 46410] within 20 days of the date of entry of this order.

If no objection or request for hearing is timely filed, the Court may approve the proposed modification pursuant to 11 U.S.C. § 1329, and the debtor's plan as so modified will then become the debtor's plan for all purposes in this case.

Dated at Hammond, Indiana on October 13, 2005.

/s/ J. Philip Klingeberger
J. Philip Klingeberger
United States Bankruptcy Court

Distribution:
Debtor, Attorney for Debtor
Trustee, US Trustee
All Creditors
All Parties-in-Interest
DAG Elizabeth Whelan